

San Francisco Bay Conservation and Development Commission

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TO: Bay Fill Working Group Committee Members

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SUBJECT: Policy Background Regarding Beneficial Reuse of Sediment
(For Bay Fill Work Group consideration on March 17, 2016)

BCDC Policies & Beneficial Reuse

The Bay Fill Working Group will receive a briefing on how beneficial reuse of dredged sediment is currently managed under the Long Term Management Strategy for the Placement of Dredged Sediment in the Bay Region (LTMS) Program by Brian Ross, the U.S. Environmental Protection Agency's LTMS Program Manager.

Questions for the Working Group to Consider:

1. How can the Commission discourage disposal at the Deep Ocean Disposal site given that it does not control activities outside of its jurisdiction?
2. Should the Commission consider new in-Bay placement sites for beneficial reuse and how should subtidal impacts be assessed in balancing the potential improvements to marshes and/or mudflats?
3. Should the Commission further define maximizing beneficial reuse?
4. Should the Commission consider using dredged sediment to improve or restore subtidal habitat, beyond a "minor amount"?

Applicable Bay Plan Policies

Dredging Policies

1. Dredging and dredged material disposal should be conducted in an environmentally and economically sound manner. Dredgers should reduce disposal in the Bay and certain waterways over time to achieve the LTMS goal of limiting in-Bay disposal volumes to a maximum of one million cubic yards per year. The LTMS agencies should implement a system of disposal allotments to individual dredgers to achieve this goal only if voluntary efforts are not effective in reaching the LTMS goal. In making its decision regarding disposal allocations, the Commission should confer with the LTMS agencies and consider the need for the dredging and the dredging projects, environmental impacts, regional economic impacts, efforts by the dredging community to implement and fund

alternatives to in-Bay disposal, and other relevant factors. Small dredgers should be exempted from allotments, but all dredgers should comply with policies 2 through 12.

2. Dredging should be authorized when the Commission can find: (a) the applicant has demonstrated that the dredging is needed to serve a water-oriented use or other important public purpose, such as navigational safety; (b) the materials to be dredged meet the water quality requirements of the San Francisco Bay Regional Water Quality Control Board; (c) important fisheries and Bay natural resources would be protected through seasonal restrictions established by the California Department of Fish and Game, the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service, or through other appropriate measures; (d) the siting and design of the project will result in the minimum dredging volume necessary for the project; and (e) the materials would be disposed of in accordance with Policy 3.
3. Dredged materials should, if feasible, be reused or disposed outside the Bay and certain waterways. Except when reused in an approved fill project, dredged material should not be disposed in the Bay and certain waterways unless disposal outside these areas is infeasible and the Commission finds: (a) the volume to be disposed is consistent with applicable dredger disposal allocations and disposal site limits adopted by the Commission by regulation; (b) disposal would be at a site designated by the Commission; (c) the quality of the material disposed of is consistent with the advice of the San Francisco Bay Regional Water Quality Control Board and the inter-agency Dredged Material Management Office (DMMO); and (d) the period of disposal is consistent with the advice of the California Department of Fish and Game, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service.
4. If an applicant proposes to dispose dredged material in tidal areas of the Bay and certain waterways that exceeds either disposal site limits or any disposal allocation that the Commission has adopted by regulation, the applicant must demonstrate that the potential for adverse environmental impact is insignificant and that non-tidal and ocean disposal is infeasible because there are no alternative sites available or likely to be available in a reasonable period, or because the cost of disposal at alternate sites is prohibitive. In making its decision whether to authorize such in-Bay disposal, the Commission should confer with the LTMS agencies and consider the factors listed in Policy 1.
5. To ensure adequate capacity for necessary Bay dredging projects and to protect Bay natural resources, acceptable non-tidal disposal sites should be secured and the Deep Ocean Disposal Site should be maintained. Further, dredging projects should maximize use of dredged material as a resource consistent with protecting and enhancing Bay natural resources, such as creating, enhancing, or restoring tidal and managed wetlands, creating and maintaining levees and dikes, providing cover and sealing material for sanitary landfills, and filling at approved construction sites.

10. Interested agencies and parties are encouraged to explore and find funding solutions for the additional costs incurred by transporting dredged materials to nontidal and ocean disposal sites, either by general funds contributed by ports and other relevant parties, dredging applicants or otherwise.
11. a. A project that uses dredged material to create, restore, or enhance Bay or certain waterway natural resources should be approved only if:
 - a. The Commission, based on detailed site specific studies, appropriate to the size and potential impacts of the project, that include, but are not limited to, site morphology and physical conditions, biological considerations, the potential for fostering invasive species, dredged material stability, and engineering aspects of the project, determines all of the following:
 - i. the project would provide, in relationship to the project size, substantial net improvement in habitat for Bay species;
 - ii. no feasible alternatives to the fill exist to achieve the project purpose with fewer adverse impacts to Bay resources;
 - iii. the amount of dredged material to be used would be the minimum amount necessary to achieve the purpose of the project;
 - iv. beneficial uses and water quality of the Bay would be protected; and
 - v. there is a high probability that the project would be successful and not result in unmitigated environmental harm;
 - b. The project includes an adequate monitoring and management plan and has been carefully planned, and the Commission has established measurable performance objectives and controls that would help ensure the success and permanence of the project, and an agency or organization with fish and wildlife management expertise has expressed to the Commission its intention to manage and operate the site for habitat enhancement or restoration purposes for the life of the project;
 - c. The project would use only clean material suitable for aquatic disposal and the Commission has solicited the advice of the San Francisco Bay Regional Water Quality Control Board, the Dredged Material Management Office and other appropriate agencies on the suitability of the dredged material;
 - d. The project would not result in a net loss of Bay or certain waterway surface area or volume. Any offsetting fill removal would be at or near as feasible to the habitat fill site;
 - e. Dredged material would not be placed in areas with particularly high or rare existing natural resource values, such as eelgrass beds and tidal marsh and mudflats, unless the material would be needed to protect or enhance the habitat. The habitat project would not, by itself or cumulatively with other projects, significantly decrease the overall amount of any particular habitat

within the Suisun, North, South, or Central Bays, excluding areas that have been recently dredged;

f. The Commission has consulted with the California Department of Fish and Game, the National Marine Fisheries Service, and the U.S. Fish and Wildlife Service to ensure that at least one of these agencies supports the proposed project; and

g. After a reasonable period of monitoring, if either:

i. the project has not met its goals and measurable objectives, and attempts at remediation have proven unsuccessful, or

ii. the dredged material is found to have substantial adverse impacts on the natural resources of the Bay, then the dredged material would be removed, unless it is demonstrated by competent environmental studies that removing the material would have a greater adverse effect on the Bay than allowing it to remain, and the site would be returned to the conditions existing immediately preceding placement of the dredged material.

b. To ensure protection of Bay habitats, the Commission should not authorize dredged material disposal projects in the Bay and certain waterways for habitat creation, enhancement or restoration, except for projects using a minor amount of dredged material, until:

h. Objective and scientific studies have been carried out to evaluate the advisability of disposal of dredged material in the Bay and certain waterways for habitat creation, enhancement and restoration. Those additional studies should address the following:

i. The Baywide need for in-Bay habitat creation, enhancement and restoration, in the context of maintaining appropriate amounts of all habitat types within the Bay, especially for support and recovery of endangered species; and

ii. The need to use dredged materials to improve Bay habitat, the appropriate characteristics of locations in the Bay for such projects, and the potential short-term and cumulative impacts of such projects; and

i. The Commission has adopted additional Baywide policies governing disposal of dredged material in the Bay and certain waterways for the creation, enhancement and restoration of Bay habitat, which narratively establish the necessary biological, hydrological, physical and locational characteristics of candidate sites; and

j. The Oakland Middle Harbor enhancement project, if undertaken, is completed successfully.

12. The Commission should continue to participate in the LTMS, the Dredged Material Management Office, and other initiatives conducting research on Bay sediment movement, the effects of dredging and disposal on Bay natural resources, alternatives

to Bay aquatic disposal, and funding additional costs of transporting dredged materials to non-tidal and ocean disposal sites.